

Service Date: June 12, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of)	UTILITY DIVISION
U S WEST Communications, Inc.)	DOCKET NO. D2000.2.21
Tariff Transmittal 00-04,)	
"Competitive Response Tariff".)	ORDER NO. 6250

PROCEDURAL ORDER

Introduction and Additional Direction

1. On April 21, 2000 the Montana Public Service Commission (Commission) issued a Notice of Filing and Opportunity to Intervene in this docket. The Commission received three timely requests to intervene and on May 5, 2000 intervention was granted to Sprint Communications Company (Sprint), the Montana Consumer Counsel (MCC) and Touch America, Inc. (Touch America).

2. Because U S WEST Communications, Inc.'s (U S West) filing consists of only a brief cover letter and proposed tariff, the Commission directs U S West to file a supplement to include 1) a narrative discussing the legal basis for the proposed tariff, including U S West's position on any legal issues which it anticipates might arise as a result of the filing, and 2) pre-filed testimony on the policy justifications which support the proposed tariff. U S West should make this supplemental filing by July 14, 2000, after which the procedural schedule will proceed as indicated below.

Intervention

3. In this order the term "parties" includes U S West, Sprint, Touch America and MCC.

Service and Filing

4. Copies of all pleadings, motions, discovery requests and responses, prefiled testimony, briefs and all other documents shall be filed with the Commission and served on all parties and other entities and individuals on the attached service list for the respective dockets. Service upon the parties shall be upon the parties' attorney of record and such other individuals as may be reasonably designated by the attorney of record. The parties may limit service of

discovery responses to service on the party making the discovery request, the Commission, and parties specifically requesting service of discovery responses.

5. Except for objections to discovery, and responses to objections to discovery, discussed below, filing by means of telephonic facsimile will not suffice for timely filing. Filing and service deadlines are the dates set for filing of the requisite number of paper copies in the offices of the Commission. Parties may arrange among themselves for use of fax or express mail.

6. An original and nine (9) copies of all discovery and other documents, except proprietary documents, must be filed with the Commission. Only one copy of proprietary documents shall be filed -- on yellow paper.

Schedule

7. The deadlines for service and filing of documents in this Docket (pursuant to the above requirements) and other pertinent dates, shall be those dates contained in Attachment □A□ which is attached hereto and incorporated herein by this reference.

Discovery

8. The term "discovery" includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as □data requests□ (informal interrogatories).

9. The Commission directs all parties to prepare data requests according to the following guidelines:

(a) Parties must assign their data requests a request number (e.g., US WEST-001). Request numbers must be consecutive regardless of the party to whom the request is directed (e.g., the PSC might direct PSC-001 through 008 to US WEST, PSC-009 through 016 to MCC, and PSC-017 through 019 to DEQ).

(b) All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit number and page number, etc., may be included in addition to, but not in lieu of, the subject of the request. This requirement will help to identify all data requests and responses addressing a particular subject or group of subjects. Subject descriptions will obviously vary from one party to another. However, each party should attempt to keep descriptions consistent from one request to another.

(c) Parties may make multi-part requests, each part denoted by a lower case letter, limited to five parts (a-e). A single part request should be denoted by the request number only.

(d) Examples of acceptable data requests are as follows:

PSC-500

RE: Return on Equity

Witness - Doe, Page JQD-4, Lines 13-15.

Please provide an analysis of hypothetical debt/equity structure.

PSC-501

RE: Return on Equity

Witness - Doe, Page JQD-14, Lines 11-14.

- a. What is the cost of equity and how is it derived?
- b. What portion of the equity capital is transferred, or imputed, to debt for ratemaking purposes?

10. The party to whom the written discovery or data requests are directed has three business days from receipt to file objections to the request(s). Notice of the objection shall be served upon the Commission and on all parties. The Commission may dispose of objections by prompt ruling or may schedule argument. Failure to timely object will be deemed acceptance of the request. Parties are encouraged to try to resolve concerns about requests before filing objections.

11. A requesting party dissatisfied with the response to any written discovery or data request and desiring Commission action to compel must serve its written objection(s) and relief requested simultaneously upon the Commission and parties within three business days after receipt of the response. The Commission may dispose of objection(s) by prompt ruling or may schedule argument. The Commission will act either to sustain or overrule the objection(s), and if sustaining, set a deadline for a satisfactory response.

12. Submission of written discovery after the deadline will be allowed by leave of the Commission only. The Commission will not grant requests without a showing of good cause as to why the request was not submitted within the time period allowed.

13. A party's unexcused failure to answer data requests or other discovery from any party may result in Commission action: (a) refusing to allow the unresponsive party to support or oppose related claims; (b) prohibiting introduction of related matters in evidence; (c) striking

pleadings, testimony, or parts thereof; (d) staying further proceedings until the request is satisfied; or (e) dismissing all or part of the case, defense, or proceeding.

Testimony and Evidence

14. At hearing, the Commission will adopt into the record all prefiled testimony upon motion of the proponent, without the witness reading the testimony into the record. The testimony will be an exhibit and not otherwise entered into the transcript.

15. All proposed exhibits and prefiled written testimony shall be marked for the purposes of identification prior to the start of the hearing. Parties should arrange in advance with the court reporter for the preferred manner of identifying exhibits.

16. When cross-examination is based on a document not previously filed with the Commission, copies of the document must be made available to the Commissioners, parties, and staff, unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each Commissioner, the Commission staff and all parties. This last requirement may be waived if the documents to be introduced are bulky, or for other good cause, upon making previous arrangements with the Commission and all parties.

17. Parties may be permitted to present live rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or in the testimony of a public witness. Such testimony will be allowed only by leave of the Commission or presiding officer.

18. The Commission may allow citizens and citizen groups to make statements without submitting prepared written testimony. Public witnesses may also read written testimony or have it adopted directly into the record.

19. The Montana Rules of Evidence in effect at the time of the hearing in this Docket will govern.

20. Any party to this proceeding responding to written discovery shall have each person authoring any response(s) present and available as a witness at the hearing to introduce the response(s) and be available for cross-examination. Parties may waive objection(s) to introduction absent the author and the right to cross-examine. Upon Commission approval of parties' agreement to waiver, the person responding to data requests need not be present to testify and the responses may be introduced into the record. Written discovery (not including transcripts

of depositions on oral examination) and data responses will be introduced at hearing only pursuant to applicable rules of evidence and through an appropriate witness subject to cross-examination, or by waiver of Parties and upon stipulation approved by the Commission.

Prehearing Motions and Conferences

21. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this Docket, shall be raised at the earliest possible time. Prehearing motions must be submitted on briefs unless otherwise requested by a party and approved by the Commission. Upon a grant of oral argument, the requesting party shall notice it for hearing before the Commission.

22. The Commission staff may set a final Prehearing Conference to discuss settlement of any issues in the proceeding; simplification of issues; possibility of obtaining admissions of fact and documents; distribution and marking of written testimony and exhibits prior to the hearing; and other procedural matters as may aid in the disposition of the proceeding.

23. Nothing in this order shall be construed as limiting the legally established right of the Commission or its staff to inspect the books and accounts of US WEST.

24. Each party shall submit a prehearing memorandum containing a list of all issues uncontested and contested, witnesses to testify, and exhibits and discovery for introduction at hearing. The prehearing memorandum should also identify any special needs to accommodate witness sequence or scheduling. Commission staff will file a limited prehearing memorandum identifying data or discovery responses to be introduced into the record, the issue to which they are relevant, and the witnesses necessary to sponsor the responses, or alternatively, to testify.

DONE AND DATED this 24th day of May, 2000 by delegation to Commission staff as the Order of the Montana Public Service Commission.

BY THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman
NANCY MCCAFFREE, Vice Chair
BOB ANDERSON, Commissioner
GARY FELAND, Commissioner
BOB ROWE, Commissioner

ATTACHMENT "A"Procedural ScheduleDocket No. D2000.2.21, Order No. 6250

<u>Deadline*</u>	<u>Action</u>
July 14, 2000	U S West Supplemental Filing
August 1, 2000	Discovery on U S West
August 11, 2000	Answers to Discovery
August 25, 2000	Intervenor Testimony
September 6, 2000	Discovery on Intervenors
September 15, 2000	Answers to Discovery
September 26, 2000	Rebuttal Testimony
October 3, 2000	Prehearing Memoranda
October 12, 2000	Hearing (Tentative)

*All deadlines are receipt dates.